UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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Re: Case No. 14-6216, *Andrea Miller v. Woodston Maddox*
Originating Case No. : 3:13-cv-01270

Dear Counsel:

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Jeanine R. Hance
Case Manager
Direct Dial No. 513-564-7037

cc: Mr. Robert Andrew Free
Mr. Derrick Charleston Smith
Mr. Keith Throckmorton

Enclosure

Mandate to issue

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 14-6216

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
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ANDREA MILLER,	)	
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	ON APPEAL FROM THE UNITED
	)	STATES DISTRICT COURT FOR
WOODSTON MADDOX,	)	THE MIDDLE DISTRICT OF
	)	TENNESSEE
Defendant-Appellant.	)	
	)	
	)	

O R D E R

Before: DAUGHTREY and CLAY, Circuit Judges; ECONOMUS, District Judge.*

Woodston Maddox, proceeding through counsel, appeals a district court order denying his motion to dismiss on qualified immunity grounds a civil rights complaint filed by Andrea Miller under 42 U.S.C. § 1983. The parties have waived oral argument, and upon examination, we agree that oral argument is not needed.

Miller filed an amended complaint against Maddox, a police officer with the Metropolitan Nashville Police Department, alleging one count of malicious prosecution in violation of the Fourth Amendment. Specifically, Miller alleged that Maddox, who detained her for a traffic infraction and resisting arrest on August 31, 2011, "swore out affidavits" containing false statements about the incident, and presented false testimony at a preliminary hearing in General Sessions Court and at a grand jury hearing. Miller alleged that she was booked into jail and detained for three or four hours before being released on pretrial release. The charges against Miller were eventually dismissed with prejudice.

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*The Honorable Peter C. Economus, United States District Judge for the Northern District of Ohio, sitting by designation.

Maddox moved to dismiss the amended complaint, arguing, in part, that he was entitled to qualified immunity. The district court denied the motion, and Maddox filed an interlocutory appeal challenging the district court's determination that he was not entitled to qualified immunity.

On appeal, Maddox argues that Miller's claims based on his statements contained in the arrest warrant affidavits give rise to a claim of false arrest, which is barred by Tennessee's statute of limitations, rather than a claim of malicious prosecution. He argues that he was entitled to qualified immunity because there was no clearly established law stating that he could be held liable for malicious prosecution when his only participation in the prosecution was his presentment of allegedly false affidavits to a General Sessions Court Commissioner.

Government officials performing discretionary functions are entitled to qualified immunity unless: "(1) the facts that the plaintiff has alleged or shown establish the violation of a constitutional right, and (2) the right at issue was clearly established at the time of the alleged misconduct." *Stoudemire v. Mich. Dep't of Corr.*, 705 F.3d 560, 567 (6th Cir. 2013) (citation and internal quotation marks omitted). On appeal from the denial of a motion to dismiss based on qualified immunity, "we review de novo whether the complaint alleges [a] violation of a clearly established constitutional right." *Heyne v. Metro. Nashville Pub. Sch.*, 655 F.3d 556, 562 (6th Cir. 2011). "The test is whether, reading the complaint in the light most favorable to the plaintiff, it is plausible that an official's acts violated the plaintiff's clearly established constitutional right." *Id.* at 562-63. A right is "clearly established" if its contours are "sufficiently clear that a reasonable government official would understand that what he is doing violates that right." *Colvin v. Caruso*, 605 F.3d 282, 290 (6th Cir. 2010) (citation, internal quotation marks, and brackets omitted).

As early as 1999, we held that "a reasonable police officer would be on notice that unlawfully detaining a suspect, despite the fact that the evidence used to detain that individual was fabricated, would . . . be unlawful." *Spurlock v. Satterfield*, 167 F.3d 995, 1006-07 (6th Cir.

1999). Several years later, we "'recognize[d] a separate constitutionally cognizable claim of malicious prosecution under the Fourth Amendment" and explained that "[s]uch a claim encompasses wrongful investigation, prosecution, conviction, and incarceration." *Barnes v. Wright*, 449 F.3d 709, 715-16 (6th Cir. 2006) (citations and internal quotation marks omitted). In 2010, we identified four elements that are required to state a claim for malicious prosecution. *Sykes v. Anderson*, 625 F.3d 294, 308-09 (6th Cir. 2010). Because the elements of a malicious prosecution claim were clearly set forth by this court in its 2010 decision in *Sykes*, Miller had a clearly established Fourth Amendment right to be free from malicious prosecution when she was arrested and charged in August 2011.

In the district court and on appeal, Maddox argues that Miller's allegations fail to satisfy the first element of a malicious-prosecution claim, which requires a plaintiff to "show that a criminal prosecution was initiated against the plaintiff and that the defendant made, influenced, or participated in the decision to prosecute." *Id.* at 308 (footnote, citation, internal quotation marks, and alterations omitted). We clearly held in *Sykes* that participation in the decision to prosecute simply requires that an officer "aid[] in the decision" to prosecute, "as opposed to passively or neutrally participating." *Id.* at 308 n.5. Here, Maddox's submission of the affidavits to a General Sessions Court Commissioner for the purpose of obtaining arrest warrants and criminal charges constituted more than passive or neutral participation. In fact, the arrest warrants that were issued identify Maddox as the "prosecutor" and state that Miller is charged with the crimes of reckless driving and resisting arrest.

Maddox cites several cases to support his argument that Miller failed to allege adequately that he participated in the decision to prosecute her. But the factual scenarios in each of the cited cases are readily distinguishable because none involved the submission of affidavits to a court for the purpose of obtaining an arrest warrant and initiating criminal charges. Instead, the defendant police officers in the cited cases simply created police reports and, in one case, provided the police report to the prosecutor. *See Skousen v. Brighton High Sch.*, 305 F.3d 520, 529 (6th Cir. 2002); *Hollis v. Bullard*, No. 10-10729, 2011 WL 5184228, at *5 (E.D. Mich.

Nov. 1, 2011); *D'Angelo v. Clinton Twp.*, No. 10-12195, 2011 WL 4888904, at *6 (E.D. Mich. Oct. 13, 2011).

Maddox also argues that Miller's claim should be construed as a false-imprisonment claim that is barred by Tennessee's statute of limitations, rather than a malicious-prosecution claim. "The 'tort of malicious prosecution' is 'entirely distinct' from that of false arrest, as the malicious-prosecution tort 'remedies detention accompanied not by absence of legal process, but by *wrongful institution* of legal process.'" *Sykes*, 625 F.3d at 308 (quoting *Wallace v. Kato*, 549 U.S. 384, 390 (2007)). The issuance of arrest warrants constitutes a "legal process." *See Ireland v. Tunis*, 113 F.3d 1435, 1446 (6th Cir. 1997); *State v. Mitchell*, 593 S.W.2d 280, 286 (Tenn. 1980). And the detention that Miller challenges is the three-to-four-hour period of confinement that resulted from the allegedly wrongful institution of this legal process. This is the exact harm that a malicious-prosecution claim is intended to remedy. *See Wallace*, 549 U.S. at 390. In light of *Wallace* and *Sykes*, it was clearly established at the time of Miller's arrest that the submission of affidavits to a General Sessions Court for the purpose of obtaining arrest warrants and initiating criminal charges could give rise to a Fourth Amendment claim of malicious prosecution.

Accordingly, the district court's decision denying Maddox's motion to dismiss on qualified immunity grounds is affirmed.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk